Proposed rule; reopening and extension of public comment period on proposed amendment

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; reopening and extension of public comment period on proposed amendment.

ALASKA proposes these revisions:

1. Executive Order 12866
This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

2. Executive Order 12778
This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 et seq.).

3. National Environmental Policy Act
No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

4. Paperwork Reduction Act
This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 et seq.).

5. Regulatory Flexibility Act
The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic impact upon a substantial number of small entities. Accordingly, this rule will ensure that the existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 902
Intergovernmental relations, Surface mining, Underground mining.


Richard J. Seibel,
Regional Director, Western Regional Coordinating Center.

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BILLING CODE 4310–05–M
SUMMARY: OSM is announcing receipt of additional proposed revisions and additional explanatory information pertaining to a previously proposed amendment to the North Dakota regulatory program (hereinafter, the “North Dakota program”) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The revisions and additional explanatory information for North Dakota’s proposed rules and statutes pertain to the North Dakota program’s Small Operator Assistance Program, and individual civil and criminal penalties. The amendment is intended to revise the North Dakota program to be consistent with the corresponding Federal regulations and SMCRA.

DATES: Written comments must be received by 4 p.m., m.s.t., November 24, 1995.

ADDITIONAL INFORMATION:

I. Background on the North Dakota Program

On December 15, 1980, the Secretary of the Interior conditionally approved the North Dakota program. General background information on the North Dakota program, including the Secretary’s findings, the disposition of comments, and the conditions of approval of the North Dakota program can be found in the December 15, 1980, Federal Register (45 FR 82214). Subsequent actions concerning the North Dakota program and program amendments can be found at 30 CFR 934.12, 934.13, 934.15, 934.16, and 934.30.

II. Proposed Amendment

By letter dated April 12, 1995, North Dakota submitted a proposed amendment to its program pursuant to SMCRA (30 U.S.C. 1201 et seq.). (Amendment number XXII, Administrative Record No. ND-W–01). North Dakota submitted the proposed amendment in response to the required program amendment at 30 CFR 934.16(y) and in response to an inconsistency with SMCRA that was identified in a July 22, 1994, rulemaking action (59 FR 37426). The provisions of the North Dakota Century Code (NDCC) that North Dakota proposes to revise or add are: NDCC 38–14.1–37(4) [SOAP, reimbursement of costs], and NDCC 38–12.1–08 [coal exploration, individual civil and criminal penalties].

OSM announced receipt of the proposed amendment in the May 2, 1995, Federal Register (60 FR 21484), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (Administrative Record No. ND–W–04). Because no one requested a public hearing or meeting, none was held. The public comment period ended on June 1, 1995.


North Dakota proposes to add North Dakota Administrative Code chapter 43–02–01 to implement the statutory provisions described above. The proposed rules include the following provisions: (1) when a corporate permittee violates permit conditions or any rule imposed under NDAC chapter 43–02–01, or fails to comply with orders issued by the commission (with one exception), any director, officer, or agent who willfully and knowingly authorized or carried out the violation, failure, or refusal shall be held accountable, and the commission shall enforce the civil and criminal penalties provided against the corporation; (2) a civil penalty may be assessed only after opportunity for public hearing; and (3) any civil penalties assessed may be recovered by the commission in civil actions in the appropriate North Dakota district court.

III. Public Comment Procedures

OSM is reopening the comment period on the proposed North Dakota program amendment to provide the public an opportunity to reconsider the adequacy of the proposed amendment in light of the additional materials submitted. In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the North Dakota program.

Written comments should be specific, pertain only to the issues proposed in
this rulemaking, and include explanations in support of the commenter’s recommendations. Comments received after the time indicated under DATES or at locations other than the Casper Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

IV. Procedural Determinations

1. Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

2. Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under section 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 et seq.).

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 934

Intergovernmental relations, Surface mining, Underground mining.


Russell F. Price,
Acting Regional Director, Western Regional Coordinating Center.

FOR FURTHER INFORMATION CONTACT: Dorothy Martin, (202) 874–6850, (Manager, Surety Bond Branch).

SUPPLEMENTARY INFORMATION: This regulation proposes to eliminate the requirement that surety companies report their Federal Process Agent appointments to the Financial Management Service. This action does not eliminate the requirement for the companies to designate a person to serve as a Federal Process Agent and to register them with the clerk of the district court for the judicial district in which a surety bond is to be given.

The proposed rule includes several editorial changes and a realignment of the sections as a result of eliminating § 224.5, “Filing process agent appointment information with the Treasury.”

This regulation is not a significant regulatory action as defined in Executive Order 12866. Accordingly, a regulatory assessment is not required. It is hereby certified that this revision will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. This change will clarify the regulation.

List of Subjects in 31 CFR Part 224

Surety bonds, Insurance.

Accordingly, Part 224 of Title 31 is proposed to be amended as follows:

PART 224—FEDERAL PROCESS AGENTS OF SURETY COMPANIES

1. The authority citation continues to read as follows:


2. Section 224.1 is revised to read as follows:

§ 224.1 Statutory provision.

The rules and regulations in this Part are prescribed for carrying into effect 31 U.S.C. 9306.

3. Section 224.5 is removed, and § 224.6 is redesignated as § 224.5 and revised to read as follows:

§ 224.5 Process agents; termination of authority.

Whenever the authority of a process agent is terminated by reason of revocation, disability, removal from the district, or any other cause, it shall be the duty of the company to immediately make a new appointment.

§ 224.7 [Redesignated as § 224.6]

4. Section 224.7 is redesignated as § 224.6, and revised to read as follows: